

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
HELENA DIVISION**

DONALD T. ATKINSON
Reg. # 23588-044

PLAINTIFF

v.

No. 2:07CV00132 JLH/HDY

LINDA SANDERS, Warden, FCI - Forrest City;
MATT H. MILLER, Unicor Supervisor,
FCI - Forrest City; RICHARD WELLS, Unicor
Supervisor, FCI - Forrest City; JIM LEE, Associate
Warden, FCI - Forrest City; CROSS, Unicor Supervisor,
FCI - Forrest City; K. NORMAN, Counselor (former),
FCI - Forrest City; K. HUNTER, Unit Manager,
FCI - Forrest City

DEFENDANTS

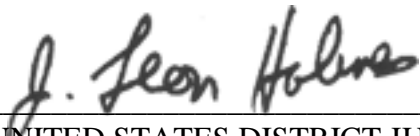
ORDER

Plaintiff filed a "Complaint for Damages" (docket entry #1) pursuant to *Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics*, 403 U.S. 388 (1971), unaccompanied by an Application for *In Forma Pauperis* Status, which was filed as new cause of action in the above-referenced case number. The magistrate judge entered an Order directing Plaintiff to submit an IFP application or the filing fee (docket entry #2) and Plaintiff has responded by filing a "Motion to Consolidate," (docket entry #4) which has called the Court's attention to a previous case filed by Plaintiff, *Atkinson v. Sanders*, 2:07CV00009 SWW/BD. In that case, Plaintiff's claims were dismissed for failure to prosecute, pursuant to Local Rule 5.5(c)(2). See docket entry numbers 19 & 20.

It appears from Plaintiff's "Motion to Consolidate" filed in this case and the "Objection to Report and Recommendations" filed in case number 2:07CV00009 SWW/BD, that the appropriate course of action is to dismiss the instant case. Therefore, the Court will construe Plaintiff's "Motion

to Consolidate” (docket entry #4) as a request for voluntary dismissal of this cause of action, and GRANTS the request. The Clerk of the Court is directed to file Plaintiff’s Complaint (docket entry #1) in the instant case as his “Amended Complaint” in case number 2:07CV0009 SWW/BD, so that it may be considered by the Court as a request for reconsideration of the previous dismissal of Plaintiff’s claims in that case.

IT IS SO ORDERED this 5th day of December, 2007.


UNITED STATES DISTRICT JUDGE